

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**ERNEST J. PAGELS, JR.,
Plaintiff,**

v.

Case No. 14-C-0683

**LINDA COLE, et al.,
Defendants.**

DECISION AND ORDER

Ernest Pagels, Jr., proceeding pro se, has filed an action against Linda Cole and others affiliated with an entity identified as Lutheran Social Services. Plaintiff states in the complaint that he is bringing a claim under the Americans with Disabilities Act for failure to accommodate his disability. However, the facts alleged in the complaint do not in any way support such a claim. Plaintiff alleges that Linda Cole “keeps beating [him] over the head with her bible,”¹ that Cole hates plaintiff’s religious beliefs and his loud and obnoxious behavior, and that Cole allows other people to harass plaintiff but will not let plaintiff harass others. At best, these allegations show that plaintiff is dissatisfied with whatever services he is receiving from Cole and Lutheran Social Services, not that the defendants are refusing to accommodate whatever disability the plaintiff may have. Thus, although plaintiff purports to be pursuing a claim under the Americans with Disabilities Act, it is clear that this claim is “wholly insubstantial and frivolous,” and that therefore this court does not have subject matter jurisdiction. See, e.g. Bell v. Hood, 327 U.S. 678, 682–83 (1946); Greater

¹Given the context of the allegation, it appears plaintiff means this figuratively and is not alleging that Cole has committed battery.

Chicago Combine and Center, Inc. v. City of Chicago, 431 F.3d 1065, 1069 (7th Cir. 2005).

The complaint will be dismissed.

I have considered whether to grant plaintiff leave to amend his complaint and conclude that doing so would be futile. In light of the present allegations of the complaint, it is clear that plaintiff does not have a non-frivolous claim for violations of the Americans with Disabilities Act to pursue. Accordingly, I will dismiss this action in its entirety. Because the dismissal is for lack of jurisdiction, it will be without prejudice.

For the reasons stated, **IT IS ORDERED** that the complaint and this action are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction. The Clerk of Court shall enter judgment.

IT IS FURTHER ORDERED that plaintiff's motion for leave to proceed without prepayment of the filing fee is **DENIED**.

Dated at Milwaukee, Wisconsin this 24th day of June, 2014.

s/ Lynn Adelman

LYNN ADELMAN
District Judge